

SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE

RULES OF COURT
RULE CHANGES EFFECTIVE 1-1-10

LOCAL RULE 6 ALTERNATIVE DISPUTE RESOLUTION *(Effective 1-1-06, as amended 1-1-07, as amended 1-1-10)*

6.22 CIVIL MEDIATOR COMPLAINT PROCESS

~~(a)~~ **(A)** Complaints concerning Court-Approved Civil Mediators shall be dealt with as follows:

1. Parties and/or attorneys who wish to file a complaint regarding the mediation process or an individual mediator may submit a written complaint to the ADR Administrator who will ~~immediately forward it to the Supervising Judge of the Civil Division.~~ **send the complainant a written acknowledgement that the Court has received the complaint.**
2. **If warranted, the Mediator will be given notice of the complaint and an opportunity to respond pursuant to CRC 3.869. The complaint will be investigated and a recommendation concerning Court action on the complaint will be made by the Presiding Judge or his/her designee.**
- 2.3. Within twenty (20) Court days of receipt of the ~~written complaint form,~~ the Supervising Judge of the Civil Division will conduct an appropriate investigation of the matter including consultation with the mediator and make a written response to the complainant as to an appropriate corrective response, if any. ~~A copy of the response shall be forwarded to the ADR Administrator. (Effective 1/1/06)~~ **the Court will send the complainant notice of the final action taken by the Court on the complaint pursuant to CRC 3.869(e).** *(Effective 1-1-06, as amended 1-1-07, as amended 1-1-10)*

LOCAL RULE 16 FAMILY LAW *(Effective date 7-1-90, as amended 1-1-04, as amended 7-1-04, as amended 7-1-05, as amended 1-1-07, as amended 7-1-07, as amended 7-1-08, as amended 1-1-09, as amended 7-1-09, as amended 1-1-10)*

16.7 FAMILY LAW FACILITATOR COMPLAINT PROCESS —FAMILY LAW FACILITATOR *(Effective date 7-1-03, renumbered 1-1-04, as amended 1-1-10))*

(A) Complaints concerning the Family Law Facilitator shall be dealt with as follows:

1. Parents, parties and/or attorneys who wish to file a complaint regarding the services provided by the Office of the Family Law Facilitator may request a copy of the Family Law Facilitator Customer Complaint Form. These forms are

available in the Family and Children Services Division, ~~Court Clerk~~ **Family Division**, or Family Law Facilitator's Offices.

2. Within five (5) ~~working~~ days of receipt, the complaint will be reviewed by the ~~Administrator of the Family & Children Services Division~~ **Family and Children's Services Director**. If the complaint is specifically regarding the Facilitator, the complaint will be forwarded to the Supervising Judge of the ~~Court's~~ Family Division. Within thirty (30) days of receipt of the complaint form, the Supervising Judge or designee will conduct an appropriate investigation. The investigation will include consultation with the Family Law Facilitator. Upon conclusion of the investigation, a written response, including any appropriate corrective measures to be taken, will be mailed to the complainant.
3. Complaints not specifically concerning the Facilitator will be investigated by the ~~Administrator of the Family & Children Services Division~~ **Family and Children's Services Director** within *thirty* (30) *days* of receipt and a written response will be mailed to the complainant. A copy of the response will be forwarded to the Court Executive Officer. (*Effective date 7-1-03, renumbered 1-1-04, as amended 1-1-10*)

16.18 **DEFAULT OR UNCONTESTED JUDGMENTS** (*Effective 7-1-90, as amended 1-1-04, renumbered 1-1-04, as amended 7-1-04, as amended 7-1-08, as amended 1-1-10*)

A. GENERAL POLICY

B. JUDGMENT BY DEFAULT

C. REQUIRED DOCUMENTS

D. CHILD CUSTODY AND VISITATION

E. CHILD SUPPORT

F. SPOUSAL OR PARTNER SUPPORT

G. REAL PROPERTY

H. RESTORATION OF NAME

I. FORMAT OF JUDGMENT

J. PREPARATION OF JUDGMENT AND ORDER

K. RESTRAINING ORDERS

L. FINALITY OF JUDGMENT OF DISSOLUTION

M. NUNC PRO TUNC JUDGMENTS

N. FEE WAIVERS

O. RELIEF INCONSISTENT WITH PETITION

~~(a)~~**A. GENERAL POLICY**

1. Where a Judgment of Dissolution, *Nullity or Legal Separation of spouses in a marriage or partners in a domestic partnership* is sought to be obtained by written agreement of the parties after a response has been filed (uncontested), or by default, the affidavit provisions of the Family Code ~~2336~~ may be used.

~~COMMENT: Judgments of a void or voidable marriage or legal separation may require a court hearing. Generally uncontested and default family law judgments shall be~~

~~obtained by declaration. However, a hearing may be set upon request of a party or by Court order. Where applicable, Judicial Council Forms or computerized substitutes are mandatory. Parties in pro per may contact the Butte County Court Facilitator for assistance in the preparation of the required forms.~~

~~(b) — PREREQUISITES TO OBTAINING THE UNCONTESTED JUDGMENT. Default or uncontested family law judgments may be obtained only after one of two events has occurred; [1] the default of respondent, or [2] respondent has appeared and the parties have stipulated to proceed uncontested. A respondent generally appears in two ways; by filing a properly completed Response, or Appearance, Stipulation and Waivers.~~

~~COMMENT: If respondent has filed a Response, the parties may appear in open court and orally stipulate to waive notice of time and place of trial and Statement of Decision and agree that the matter shall be heard on the uncontested calendar.~~

~~(e) — REQUIREMENTS OF PRELIMINARY DECLARATION OF DISCLOSURE IN ALL CASES. Prior to the Court entering a default judgment, regardless of whether or not there is a written agreement between the parties, petitioner must serve the preliminary declaration of disclosure as provided in Family Code §2104 containing, at a minimum, the requirements set forth at Family Code §2104 (c)(1),(2) and (e). A party may amend his or her preliminary declaration of disclosure without leave of Court pursuant to 2104(d). The purpose of the preliminary declaration of disclosure is to allow a person of reasonable and ordinary intelligence to be able to ascertain the identity of all the assets and liabilities of the parties regardless of whether the assets are community, quasi community or separate as well as what percentage of the asset is owned by the petitioner.~~

~~The Declaration Regarding Service of Preliminary Declaration of Disclosure must be filed with the Court, showing that service of the documents has been effected. The form of the preliminary declaration of disclosure is entitled “Declaration of Disclosure (Family Law).” [Judicial Council Form FL140]~~

~~(d) — NO FINAL DECLARATION OF DISCLOSURE REQUIRED OF PETITIONER FOR A DEFAULT JUDGMENT. In the case of a default judgment, the petitioner may elect not to file a final declaration of disclosure, provided the proof of service of serving preliminary declaration of disclosure has been filed.~~

~~(e) — REQUIREMENTS OF FINAL DECLARATION OF DISCLOSURE, WAIVER OF FINAL DECLARATION OF DISCLOSURE. Where the respondent has filed a Response, a final declaration of disclosure is ordinarily required of both parties unless the parties jointly agree to stipulate to a mutual waiver of the requirements of a final declaration of disclosure under Family Code §2105(d). Such a waiver shall include all of the following representations:~~

- ~~(1) — both parties have complied with the obligations to file preliminary declarations of disclosure referenced above and preliminary declarations of disclosure have been completed and exchanged between the parties;~~
- ~~—— (2) — both parties have completed and exchanged a current Income and Expense Declaration;~~

~~—— (3) — the waiver is knowingly, intelligently, and voluntarily entered into by each of the parties;~~

~~—— (4) — each party understands that by signing the waiver, he or she may be affecting his or her ability to have the judgment set aside at any future time.~~

~~Where there is no mutual waiver, and the respondent has appeared, in order for entry of judgment, both parties will need to file no later than 45 days prior to the entry of judgment, a final declaration of disclosure and a complete, current Income and Expense Declaration. The final declaration of disclosure shall be completed in its entirety pursuant to Family Code §2105.~~

~~(f) — JUDGMENT (FAMILY LAW) BY DECLARATION. All papers necessary to obtain judgment by declaration under FC §2336 shall be delivered to the Clerk's Office.~~

~~(g) — JUDGMENT BY DEFAULT. Unless the Court orders otherwise, a default will not be entered based on a Notice & Acknowledgment of receipt signed by a person other than the party to whom it is directed.~~

~~—— 1. — No award of child support, spousal support or attorney's fees will be granted unless there is either an attached written agreement between the parties settling those issues, or there is sufficient information on which a Court may base such an award, including an executed and fully completed Income and Expense Declaration (with information concerning both parties where available) attached to and served with the Request to Enter Default. If either or both parties have applied for and/or are receiving public assistance, then the proposed Judgment shall be presented to the Butte County Department of Child Support Services for approval prior to its presentation to the Court for approval.~~

~~—— 2. — No division of community property (assets or obligations), or confirmation of separate property, will be ordered unless there is either an attached written agreement between the parties settling those issues, or there is a completed Property Declaration attached to and served with the Request to Enter Default.~~

~~(h) — CHILD CUSTODY AND VISITATION~~

~~—— 1. — Where the judgment is taken by default, and there is no attached written agreement of the parties concerning custody and visitation, an attached factual declaration shall set forth the following:~~

~~—— A. — Where the party is seeking joint custody, what contact with the child(ren) the defaulting party shall have.~~

~~—— B. — Where the party is seeking to deny visitation between the child(ren) and the defaulting party, the reasons why visitation should not be ordered.~~

~~—— 2. — In preparing the declaration, the party shall inform the Court when the parties were separated, who has been the primary caretaker of the child(ren) during the immediate past six (6) months and the extent of contact between the child(ren) and the non-caretaker parent during that time.~~

~~(i) — CHILD SUPPORT~~

- ~~1. Where judgment is obtained by default, and there is no attached written agreement concerning child support, then:
 - ~~A. An attached declaration shall state the effective date of the order sought, the amount of support sought per child and in total, the net incomes of each party, the name and birth date of each child, and the amount of support suggested in the case of each child pursuant to FC §4050 et seq. An Income and Expense Declaration is required.~~
 - ~~B. Where a support order is sought and the party to whom support is to be paid has applied for and/or is receiving public assistance, the proposed judgment shall be presented to the Butte County Department of Child Support Services for approval prior to its presentation to the Court for approval as to child support. Such support shall be ordered payable to the Butte County Family Trust Fund.~~~~
- ~~2. If there is an attached agreement duly executed by the parties, and notarized, such that the matter is proceeding as an uncontested hearing, then there must be a factual showing that child support is in conformance with the mandatory child support guidelines for a waiver of the mandatory child support guidelines under Family Code §4065, expressly providing that (1) the parties are fully informed of their rights concerning child support; (2) the order is being agreed to without coercion or duress; (3) the agreement is in the best interests of the children involved; (4) the needs of the children will be adequately met by the agreed-upon amount of child support; (5) the right to child support has not been assigned to the County of Butte because the party receiving child support is not receiving public assistance; (6) that no application for public assistance is pending by either party.~~

~~(j) SPOUSAL SUPPORT~~

- ~~1. The issue of spousal support for each party must be addressed. A support amount may be requested, terminated, or the issue may be reserved.~~
- ~~2. If a request for spousal support is by default, attach a declaration which states the effective date of the order sought, the amount of spousal support sought, and the net incomes of each party.~~
- ~~3. If the party to whom spousal support is to be paid has applied for and/or is receiving public assistance, the proposed judgment shall be presented to the Butte County Department of Child Support Services for approval prior to its presentation to the Court for approval as to spousal support. Such support shall be ordered payable to the Butte County Family Trust Fund.~~
- ~~4. If an uncontested and agreed-upon judgment waives spousal support, then both parties will need to acknowledge that their waiver is a knowing, voluntary, and intelligent waiver of spousal support and that each party understands their rights and is voluntarily and knowingly surrendering these rights.~~
- ~~5. When the Court is requested to make an order for spousal support, unless there is a circumstance where a party is unable to make any efforts to contribute to his or her self-support, the form of judgment shall provide the following~~

~~admonition: “It is the goal of this state that each party shall make reasonable good faith efforts to become self-supporting as provided for in Family Code Section 4320. The failure to make reasonable good faith efforts may be one of the factors considered by the court as a basis for modifying or terminating support.” If there is an inability of a party receiving spousal support to make good faith efforts to become self-supporting, the decree should reflect this by specific language to that effect.~~

NOTE: Judgments of Nullity of Marriage or Nullity of a Domestic Partnership require a Court hearing.

2. Generally uncontested and default family law Judgments shall be obtained by declaration. However, a hearing may be set upon request of a party or by a Court order.

3. The signatures on any written agreement between self-represented parties which is submitted to the Court as part of a Judgment shall be notarized.

B. JUDGMENT BY DEFAULT

1. Unless the Court orders otherwise, a default will not be entered based on notice and acknowledgement of receipt signed by a person other than the party to whom it is directed.

C. REQUIRED DOCUMENTS

1. A Family Law Judgment Checklist (see Form RUL-16-FL.040) or Family Law Parentage Judgment Checklist (see Form RUL-16-FL.050) must be completed and filed with any proposed default or uncontested Judgment that is submitted to the Clerk's Office pursuant to Family Code §2336. All documents described in those checklists must also be submitted.

D. CHILD CUSTODY AND VISITATION

1. If Petitioner is asking for a default Judgment in a dissolution, legal separation, or nullity of a marriage or domestic partnership, or in a parentage or custody and support case, and has a child with the other parent and one or more of the following apply:

- a. does not already have a custody and visitation order,***
- b. did not file a Child Custody and Visitation Application Attachment (Judicial Council Form FL-311) or a specific proposed order with the Petition,***
- c. does not already have a Marital Settlement Agreement or Stipulated Judgment,***

then the Petitioner shall complete, file and serve by mail or in person a Declaration for Default Custody and Visitation Orders (see Form RUL-16-FL.030) at least fifteen (15) calendar days before the Judgment is submitted.

2. A copy of the filed Declaration and proof of service shall be submitted to the Court with any proposed Judgment.

3. If Petitioner is obtaining the Judgment by default hearing, the Petitioner does not have to file and serve the Declaration for Default Custody and Visitation Orders (see Form RUL-16-FL.030) but must be prepared to talk about the factors requested in the Declaration at the default Court hearing.

E. CHILD SUPPORT

1. Where Judgment is obtained by default and there is no attached written agreement concerning child support, an attached Declaration shall state the effective date of the order sought, the amount of support sought per child and in total, the gross and net income of each party, the name and birth date of each child, and the amount of support for each child as calculated according to California child support guidelines. A computerized printout of the guideline calculations, including the findings page, may be substituted for the support portion of this Declaration.

2. Where a child support order is sought and the party to whom support is to be paid is receiving public assistance or the Department of Child Support Services (DCSS) is enforcing existing child support orders, that fact shall be set out in the Judgment and the issue shall be reserved for enforcement by DCSS. The party shall further list the court case number on the DCSS action.

F. SPOUSAL OR PARTNER SUPPORT

1. The issue of spousal or partner support for each party must be addressed in the Judgment. A support amount may be requested, spousal or partner support may be terminated, or the issue of spousal or partner support may be reserved.

2. If a request is made for:

a. establishing by default a permanent spousal or partner support for Petitioner or Respondent, or

b. terminating by default spousal or partner support for the Respondent, in a "marriage of long duration" (as defined in Family Code §4336(b)).

and there is no attached written agreement concerning spousal or partner support, Petitioner shall file and serve by mail a Declaration at least fifteen (15) calendar days before filing the Judgment stating the following:

1. The effective date of the order sought

2. The proposed duration of support sought

3. The amount of support sought

4. The gross and net income of both parties

5. Information regarding relevant factors under Family Code §4320

The Proof of Service by mail form (Judicial Council Form FL-335) for service of this Declaration shall be filed with the Court before filing the proposed Judgment.

This section does not apply to requests for termination of permanent spousal support in marriages not of long duration under Family Code §4336(b).

G. REAL PROPERTY

All real property referred to in a Judgment shall be described by its complete common address and/or legal description.

H. RESTORATION OF NAME

Restoration of a party's former name shall be ordered in a Judgment only upon that party's written request or request in open Court.

(I) FORMAT OF JUDGMENT

1. All orders concerning child custody, child visitation, child support, spousal support and attorney fees, as applicable, shall be set forth in the body of the judgment. As to these specific matters, reference to an attached written agreement of the parties is not acceptable.
2. The division of the community estate and confirmation of separate property, as applicable, may be set forth either in the body of the Judgment or in an attached agreement incorporated in the Judgment by reference.
3. Any jointly agreed-upon Judgment or marital settlement agreement shall have the signatures of both parties notarized by a separate notary and the notary seal attached by those separate notaries.

(J) PREPARATION OF JUDGMENT AND ORDER

1. The party directed by the court to prepare a Judgment or Order After Hearing shall do so within ***fifteen*** (15) days of being so directed and shall submit the proposed Judgment or Order to all other parties for approval as to form. If the non-preparing parties do not approve the form of order or propose modifications within 10 days of being served with the proposed Judgment or Order, the preparing party shall submit the Judgment or Order directly to the court with a letter detailing compliance with this rule.
2. If the party who is directed to prepare the Judgment or Order fails to do so, any other party may prepare the Judgment or Order and shall be awarded

reasonable attorney's fees for preparing the Judgment or Order and for obtaining the award of attorney's fees.

3. Any party may by letter notify the court of a dispute over the form of Judgment or Order, or of the need for an award of attorney's fees for preparing a Judgment or Order that another party was directed to prepare and the Court may, by minute order, set the matter for hearing.

4. The signature of the judicial officer shall not follow any attached agreement of the parties, but shall be set forth on the Judgment following the orders of the Court.

~~(m)~~**(K)** RESTRAINING ORDERS. All restraining orders in a Judgment issued pursuant to FC §§2045(a) and 6322 must be followed by the date of expiration of such order (FC §6361; maximum five (5) years); ~~good cause for granting such order(s) shall be set forth in attached declaration(s).~~

~~(n)~~ ~~REAL PROPERTY.~~ All real property referred to in a Judgment shall be described by its complete common address and legal description.

~~(o)~~ ~~RESTORATION OF NAME.~~ Restoration of a party's name shall be ordered in a judgment only upon the party's written request or request in open court. (See FC §2080).

~~(p)~~**(L)** FINALITY OF JUDGMENT OF DISSOLUTION

1. No Judgment for the dissolution of marriage shall be final until six (6) months have expired from date of service of summons and petition or date of appearance of respondent. The Judgment shall specify the date on which the Judgment is finally effective for the purpose of terminating the marriage relationship of the parties. (FC §§2338 and 2339).

2. Upon noticed motion and good cause shown, or stipulation of the parties, the Court may retain jurisdiction over the date of termination of the marital status, or order the marital status terminated at a future specified date (FC §2340).

~~(q)~~**(M)** NUNC PRO TUNC JUDGMENTS. To be entered nunc pro tunc, a Judgment must comply with FC §2346. *(Effective 7-1-90, as amended 1-1-04, renumbered 1-1-04, as amended 7-1-04, as amended 7-1-08)*

(N) FEE WAIVERS AT TIME OF ENTRY OF A JUDGMENT

Pursuant to Government Code section 68637, subsections (d) and (e), all fee waivers will be subject to review by a judicial officer at the time a Judgment is submitted for signature and entry. At such time, the judicial officer may specify at his/her discretion that a Judgment not be entered except upon payment of all outstanding fees or upon the granting of a new fee waiver upon submission of a new application. Nothing in

this rule limits the Court's ability to review fee waivers during the proceeding per Government Code section 68636.

(O) RELIEF INCONSISTENT WITH PETITION

Except by written agreement or as may be permitted by law, the Court will not grant relief that is inconsistent with the relief requested in the Petition. The Court on its own motion may require the party to appear to justify the relief requested. (Effective 7-1-90, as amended 1-1-04, renumbered 1-1-04, as amended 7-1-04, as amended 7-1-08, as amended 1-1-10)

16.19 MINOR'S COUNSEL *(Effective 7-1-04, as amended 7-1-08, as amended 1-1-10)*

- A. Appointment of Minor's Counsel, see CRC 5.240.
- B. Compensation of Minor's Counsel, see CRC 5.241.
- C. Qualifications of Minor's Counsel, see CRC 5.242.
- D. Rights and Responsibilities of Minor's Counsel, see CRC 5.242(i)-(k).
(Effective 7-1-04, as amended 7-1-08)

E. Minor's Counsel Complaint Process

1. Complaints concerning Minor's Counsel shall be dealt with as follows:

- a. *Parents, parties and/or attorneys desiring to file a complaint regarding the performance of Minor's Counsel may request a copy of the Family Court Complaint Form: Minor's Counsel from the Family Law Division.*
- b. *Within twenty (20) Court days after receipt of the written complaint form, the Supervising Judge of the Family Division shall conduct an appropriate investigation of the matter including a consultation with Minor's Counsel and provide a written response to the complainant. A copy of the response shall be provided to the Court Executive Officer.*
- c. *The complainant may appeal the Supervising Judge's action to the Presiding Judge of the Superior Court by sending a letter to the Court Executive Officer within ten (10) Court days of receiving the Supervising Judge's response. The letter should specifically request a review of the matter by the Presiding Judge of the Superior Court. In the letter the complainant shall detail his/her concerns with the response provided by the Supervising Judge of the Family Division. The Presiding Judge of the Superior Court shall conduct such investigation as he/she deems warranted. The Presiding Judge shall respond in writing within thirty (30) Court days thereafter. (Effective 7-1-04, as amended 7-1-08, as amended 1-1-10)*

16.22 ACCESS TO VISITATION PROGRAM COMPLAINT PROCESS *(Effective 1-1-10)*

(A) Complaints concerning services provided as part of the Access to Visitation (All About Kids) Program shall be dealt with as follows:

- 1. Parents, parties and/or attorneys desiring to file a complaint regarding the Access to Visitation (All About Kids) Program process or an individual provider may request a copy of the Family Court Services Client Complaint Form for Supervised Visitation Services. These forms are available in the Supervised Visitation Services Office, Family Court Services/Mediation Office, Court Clerk's Office or Family Law Facilitator and SHARP Offices.**
- 2. Subsequent to filing the complaint form, parties may request an interview with the Family and Children's Services Director. Within twenty (20) days after receipt of the written complaint form, the Family and Children's Services Director will conduct an appropriate investigation of the matter including consultations and/or a written response from the Access to Visitation Program staff including the Executive Director, Supervised Visitation Director, Coordinator and the Supervised Visitation Provider. The Family and Children's Services Director will provide a written response to the complainant as to an appropriate corrective response if any. The response will be mailed to the complainant.** *(Effective 1-1-10)*

**LOCAL RULE 17 JUVENILE COURT RULES (ATTORNEYS
REPRESENTING ~~PARITES~~ PARTIES IN DEPENDENCY PROCEEDINGS)**
(Effective 7-1-96, as amended 1-1-02, as amended 1-1-07, as amended 1-1-10)

**17.9 ~~PROCEDURES FOR REVIEWING AND RESOLVING COMPLAINTS~~
JUVENILE COURT-APPOINTED ATTORNEY COMPLAINT PROCESS** *(Effective 7-1-96, as amended 1-1-02, as amended 1-1-10)*

(A) Complaints concerning the Court-Appointed Juvenile Attorneys shall be dealt with as follows:

- (a) 1. Any party to a Juvenile Court proceeding may lodge a written complaint with the Court concerning the performance of his or her appointed attorney in a Juvenile Court proceeding. In the case of a complaint concerning the performance of an attorney appointed to represent a minor, the complaint may be lodged on the child's behalf by the social worker, a caretaker relative or a foster parent.**
- (b) 2. Upon receipt of a written complaint, the Court shall notify the attorney in question of the complaint, shall provide the attorney with a copy of the complaint,**

and shall give the attorney fifteen (15) days from the date of the notice to respond to the complaint in writing.

- ~~(e)~~ 3. After response has been filed by the attorney or the time for the submission of a response has passed, the Court shall review the complaint and the response, if any, to determine whether the attorney acted contrary to local rules or policies or has acted incompetently. The Court may ask the complainant or the attorney for additional information prior to making a determination on the complaint.
- ~~(d)~~ 4. If, after reviewing the complaint, the response, and any additional information, the Court, either in writing or at oral hearing, finds that the attorney acted contrary to the rules or policies of the Court or incompetently, the Court shall take appropriate action.
- ~~(e)~~ 5. The Court shall notify the attorney and complaining party either in writing or by oral ruling at a closed hearing of its determination of the complaint. The Court's determination will be final. *(Effective 7-1-96, as amended 1-1-02, as amended 1-1-10)*